

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALLAH,

Petitioner,

v.

DONALD R. HOLBROOK,

Respondent.

4:16-cv-05045-SAB

**ORDER DENYING MOTION
TO VACATE CLERK'S
JUDGMENT**

BEFORE THE COURT is Petitioner's Motion to Vacate Clerk's Judgment, ECF No. 22. By Order filed September 1, 2016, the Court adopted the Report and Recommendation of Magistrate Judge Rodgers and dismissed Petitioner's habeas action without prejudice pursuant to Rule 4, Rules Governing Section 2254 Cases in the United States District Courts, ECF No. 20. Judgment was entered against Allah on the same day. ECF No. 21.

Petitioner, a non-capital prisoner at the Washington State Penitentiary, is proceeding *pro se* and *in forma pauperis*; Respondent was not served. The Motion was noted for hearing on October 13, 2016, and considered without oral argument on the date signed below.

Petitioner titles his Motion, "F.R.C.P. Rule 60.(b)(3) Fraud; (4) Judgment is Void; (5) Judgment is satisfied; (d)(3) set aside a judgment for Fraud on the

1 Court.” The substance of this motion is a single page list of various other lawsuits,
2 plus attached documents from various court proceedings, including copies of
3 several “Notices of Tort Claim” apparently submitted in other actions. Petitioner
4 has presented no argument for relief from the Order dismissing this action.

5 The Court finds Petitioner is not entitled to relief under any of the
6 subsections of Rule 60(b). He has failed to present newly discovered evidence or
7 other "extraordinary circumstance" that would warrant disturbing the judgment in
8 this case. *Gonzalez v. Crosby*, 545 U.S. 524, 528 (2005).

9 Accordingly, **IT IS ORDERED that:**

10 1. Petitioner’s Motion to Vacate Clerk’s Judgment, ECF No. 22, is
11 **DENIED.**

12 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order
13 and forward copies to Petitioner. The file shall remain closed. The Court further
14 certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could
15 not be taken in good faith, and there is no basis upon which to issue a certificate of
16 appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

17 **DATED** this 26th day of October, 2016.



21
22

A handwritten signature in blue ink that reads "Stanley A. Bastian".

23 Stanley A. Bastian
24 United States District Judge
25
26
27
28